

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

JAIME CORTEZ ) CIVIL ACTION NO.  
V. ) A:09-CA-642-SS  
TOLTECA ENTERPRISES, INC., dba )  
PHOENIX RECOVERY GROUP )

**MOTION AND STIPULATION FOR DISMISSAL**

Plaintiff and Defendant jointly file this motion and stipulation of dismissal under Federal Rule of Civil Procedure 41(a)(1)(ii).

1. Plaintiff and Counter-Defendant is Jaime Cortez.
2. Defendant and Counter-Plaintiff is Tolteca Enterprises, Inc., dba Phoenix Recovery Group.
3. Plaintiff and Defendant move to dismiss the suit as the parties have entered into a Settlement and Mutual Release Agreement disposing of all issues and claims concerning this lawsuit.
4. As part of this stipulation, Defendant dismisses its Counter-Claim and its claim for sanctions against Plaintiff for failure to make discovery.
5. This case is not a class action.
6. A receiver has not been appointed in this action.
7. This case is not governed by any federal statute requiring an order of the court for dismissal of the case.
8. The parties stipulate to a dismissal with prejudice to refiling.

Respectfully submitted,

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Plaintiff Pro Se

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**ORDER OF DISMISSAL**

Before the court is the Motion and Stipulation to Dismiss. Finding that the parties have jointly moved for dismissal with prejudice and that the parties have agreed to settle this case, the court finds and is of the opinion that the motion should be and is GRANTED.

IT IS, THEREFORE ORDERED that the above entitled and numbered cause is dismissed with prejudice to its refiling. All costs are adjudged against the party who incurred them.

Signed on \_\_\_\_\_, 2010.

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U.S. DISTRICT JUDGE

Agreed to:

S/TOM CLARKE  
Texas Bar No. 04318600  
8026 Vantage Drive, Suite 125A  
San Antonio, Texas 78230  
Attorney for Tolteca Enterprises, Inc.

S/JAIME CORTEZ  
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Plaintiff, Pro Se

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**ORDER MOOTING STATUS CONFERENCE**

The February 23, 2010 Status Conference is moot and is canceled because the parties have agreed to dismiss this case and the Court has entered its Order of Dismissal.

Signed on \_\_\_\_\_, 2010.

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U.S. DISTRICT JUDGE